



STATE OF TENNESSEE
DEPARTMENT OF ENVIRONMENT AND CONSERVATION
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July 25, 2011

William L. Penny
Stites & Harbison, PLLC
401 Commerce Street, Suite 800
Nashville, TN 37219

RE: Appeal of Permit for National Coal Tipple # 2
NPDES Permit TN 0053848
Campbell County

Dear Bill,

When the above-referenced permit was issued, it required interim monitoring for nickel and selenium. It provided that depending on the results of the monitoring and the resulting analysis of the reasonable potential to cause or contribute to an excursion above the water quality criteria, either the monitoring requirement would be discontinued or there would be final limits established for either or both pollutants. You filed an appeal contesting those provisions of the permit, but your client continued to do the monitoring. It was determined on July 22, 2011, that there is no reasonable potential for a violation of the criteria by either pollutant and National Coal was informed that the monitoring could cease.

Therefore, the only matters at issue in the permit appeal have been resolved and the appeal is moot. Therefore, I am closing this case. Please call me if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Alan Leiserson", is written over the word "Sincerely,".

Alan Leiserson
Legal Services Director

cc: Dave Turner